

Regular Session, October 3, 2011, 9:30 a.m.
Catawba County Board of Commissioners

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The Catawba County Board of Commissioners met in regular session on Monday, October 3, 2011 at 9:30 a.m. in the Robert E. Hibbits Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Lynn M. Lail and Commissioners Dan A. Hunsucker, Barbara G. Beatty and Randy Isenhower.

Also present were Assistant County Manager Lee Worsley, Assistant County Manager Dewey Harris, County Attorney Debra Bechtel, Deputy County Attorney Anne Marie Pease and County Clerk Barbara Morris. County Manager J. Thomas Lundy was absent.

1. Chair Katherine W. Barnes called the meeting to order at 9:30 a.m.
2. Vice-Chair Lynn M. Lail led the Pledge of Allegiance to the Flag.

3. Commissioner Randy Isenhower offered the invocation.
4. Commissioner Barbara G. Beatty made a motion to approve the minutes from the Regular and Closed Session of September 12, 2011. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes welcomed all present.
6. Public Comments for Items Not on the Agenda: None.
7. Presentations:
 - a. Vice-Chair Lail presented Untied Way Executive Director Jennie Conner, Reverend Bob Silber of Eastern Catawba Cooperative Christian Ministries and Mental Health Partners Housing Coordinator Teena Willis with a proclamation declaring November 13-20, 2011, as National Hunger and Homeless Awareness Week to recognize that hunger and homelessness continues to be a serious problem for many individuals and families in Catawba County and encourage support for homeless assistance service providers as well as community service opportunities for students and school service organizations.
 - b. Commissioner Isenhower presented Rescue Manager Mark Pettit with a proclamation recognizing October 9-15, 2011, as Fire Prevention Week, urging Catawba County citizens to protect their homes and families by practicing home fire safety and having a home fire escape plan in place.
8. Public Hearings:
 - a. Finance Director Rodney Miller presented a request for the Board to hold a public hearing and adopt a resolution authorizing an application to the North Carolina Local Government Commission to refinance existing debt to take advantage of lower interest rates subject to certain restrictions.

Local governments in North Carolina are allowed to refund, or refinance, existing debt to take advantage of lower interest rates subject to certain restrictions. One of those restrictions is that the North Carolina Local Government Commission (LGC), a division of the State Treasurer's Office, approves the transaction. The LGC requires a net present value savings of at least 3% in order to begin the refunding process. With rates at historic lows, preliminary analysis shows the County's 2004 Certificates Of Participation transaction, along with its 2003 and 2008 installment purchase loans, could be refunded at current interest rates to achieve approximately 4.4% net present value savings, amounting to more than \$2 million in savings over the next 17 years. That amount could fluctuate as interest rates change between now and the sale date, which is expected in mid-November. Catawba County last refunded its debt in 2005, resulting in an interest savings of approximately \$500,000 over ten years.

Chair Barnes opened the public hearing, noting that it had been duly advertised for this time and place. No one came forward to speak and Chair Barnes closed the public hearing. Commissioner Isenhower confirmed that the debt term was not extended through this action. Commissioner Hunsucker made a motion to adopt the required resolution. The motion carried unanimously. Mr. Miller indicated that the Board would be asked to take further action in regards to this matter at its next meeting. The following resolution applies:

RESOLUTION NO. 2011-18

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF CATAWBA, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

WHEREAS, the County of Catawba, North Carolina (the "*County*") is a validly existing political subdivision of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "*State*");

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment financing contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

WHEREAS, the County has previously entered into the following installment financing contracts (collectively, the "*Prior Contracts*");

(1) an Installment Financing Agreement dated as of September 15, 2003 between the County and Bank of America, N.A., the proceeds of which were used to finance a new middle school for Hickory City Schools;

(2) an Installment Financing Agreement dated as of August 1, 2004 between the County and Catawba County Public Facilities Financing Corporation, a North Carolina nonprofit corporation (the "*Corporation*"), the proceeds of which were used (a) to finance the construction and equipping of a new high school for Catawba County Schools and a new middle school for Hickory City Schools and (b) the equipping of a learning resource center at Catawba Valley Community College;

(3) an Installment Financing Agreement dated as of May 1, 2005 between the County and the Corporation, the proceeds of which were used to finance an expansion to the County's Justice Center and improvements to C.H. Tuttle Elementary School; and

(4) a Financing Agreement and Deed of Trust dated as of May 30, 2008, as amended by a Modification Agreement dated as of August 8, 2008, each between the County and Branch Banking and Trust Company, the proceeds of which were used to finance (a) improvements to Bunker Hill High School, (b) the construction and equipping of various wastewater system improvements, including sewer mains and lines, pump stations, and a utility bridge and (c) the construction and equipping of, or improvements to, (i) certain public school facilities, including Snow Creek Elementary School and Bandys High School, and (ii) certain facilities at Catawba Valley Community College;

WHEREAS, to secure its obligations under the Prior Contracts, the County executed and delivered deeds of trust granting a security interest in certain projects financed by the Prior Contracts,

including the sites on which Bandys High School, Snow Creek Elementary School and Bunker Hill High School are located (collectively, the “*Sites*”) and the improvements thereon;

WHEREAS, the Board hereby determines that it is in the best interest of the County (1) to enter into an installment financing contract (the “*Contract*”) in order to refinance a portion of its installment payment obligations under the Prior Contracts and (2) to enter into a deed of trust, security agreement and fixture filing (the “*Deed of Trust*”) relating to all or such portion of the County’s fee simple interest in one or more of the Sites and the improvements thereon as may be required to secure the refinancing;

WHEREAS, the County has previously determined and hereby determines that the acquisition of the projects financed under the Prior Contracts are essential to the County’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the projects financed under the Prior Contracts are providing an essential use and are permitting the County to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the County by virtue of the findings presented herein;

WHEREAS, the County has been advised that it can achieve savings by refinancing a portion of the County’s installment payments due under the Prior Contracts;

WHEREAS, the County hereby determines that the Contract will allow the County to refinance a portion of the County’s installment payments due under the Prior Contracts at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the County;

WHEREAS, the County hereby determines that the estimated cost of refinancing the Prior Contracts is an amount not to exceed \$60,000,000 and that such cost of refinancing the Prior Contracts exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of refinancing of the Prior Contracts pursuant to the Contract is expected to exceed the cost of refinancing the Prior Contracts pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of refinancing the Prior Contracts pursuant to the Contract and the Deed of Trust and the obligations of the County thereunder are

preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of refinancing the Prior Contracts; and (3) insufficient revenues are produced by projects financed under the Prior Contracts so as to permit a revenue bond financing;

WHEREAS, the County hereby determines that the estimated cost of refinancing the Prior Contracts pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the County does not anticipate a future property tax increase to pay installment payments falling due under the Contract;

WHEREAS, Parker Poe Adams & Bernstein LLP, as special counsel ("*Special Counsel*"), will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contract;

WHEREAS, the County is not in default under any of its debt service obligations;

WHEREAS, the County's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

WHEREAS, past audit reports of the County indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the County has not been censured by the North Carolina Local Government Commission (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, a public hearing on the Contract was held on October 3, 2011;

WHEREAS, the County must receive the approval of the LGC with respect to entering the Contract;
and

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE
COUNTY OF CATAWBA, NORTH CAROLINA, AS FOLLOWS:**

Section 1. **Authorization to Negotiate the Contract.** The County Manager and the Finance Director, with advice from the County Attorney and Special Counsel, are hereby authorized and directed to negotiate on behalf of the County for the refinancing of a portion of the County's installment payment obligations under the Prior Contracts, as may be determined by the Finance Director, for a principal amount not to exceed \$60,000,000 under the Contract to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina and, in connection with the Contract and to secure the County's obligations under the Contract, to provide the Deed of Trust conveying a lien and interest in one or more of the Sites, including the improvements thereon, as may be required by the entity or entities, or their respective assigns, providing the funds to the County under the Contract.

Section 2. **Application to LGC.** The Finance Director or his designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the County and its financial condition as may be required by the LGC.

Section 3. **Financing Team.** The financing team of Parker Poe Adams & Bernstein LLP, as special counsel, Stephens, Inc. and Robert W. Baird & Co., as underwriters, Robinson, Bradshaw & Hinson, P.A., as underwriters' counsel, and U.S. Bank National Association, as trustee and escrow agent, is approved.

Section 4. **Repealer.** All motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 5. **Effective Date.** This Resolution is effective on the date of its adoption.

b. Director of Planning, Parks and Development Jacky Eubanks presented a request for the Board to hold a public hearing in consideration of the 2011-12 Community Development Block Grant (CDBG) cycle, to receive citizen input regarding the submitting of grant applications to the North Carolina Department of Commerce to address the needs of low and moderate income residents and

neighborhoods in Catawba County. Each year, CDBG provides funding to local governments for hundreds of critically needed community improvement projects throughout the state that serve low and moderate income persons. The types of programs funded include housing rehabilitation, infrastructure, economic development, small business and entrepreneurship, capacity building and catalyst programs. During Fiscal Year 2010-11 CDBG Scattered Sites Housing funds were used in Catawba County to rehabilitate two homes and provide emergency repair to twelve homes. The Urgent Repair Program provided minor repairs to seventeen homes, and four first-time home buyers were assisted by the program's Individual Development Account grant. Under its Water and Sewer Grant, 34 hook-ups to water or sewer were provided and twenty homeowners in the Royal Heights community were hooked to water.

Two public hearings (general and specific to a project) must be held to receive public comment on any project. This is the general public hearing for the upcoming year. Should the County choose to apply for CDBG funds during FY 2011-12, a second public hearing will be held concerning that specific project and application.

Chair Barnes opened the public hearing, noting it had been duly advertised for this time and place. No one came forward to speak and Chair Barnes closed the public hearing.

9. Appointments:

Chair Barnes recommended the reappointment of Dr. Karen McDougal, Phil Piaski and Wilton Scronce to second terms and Jerry McCombs to a first full term on the Parks Advisory Board. These terms will expire on October 6, 2014. Commissioner Isenhower recommended the appointment of Hickory Public Schools Director of Student Services Angela Simmons for an unexpired term on the Juvenile Crime Prevention Council. Ms. Simmons will be acting as the representative of the Hickory Public School Superintendent and her term will expire on June 30, 2012.

These recommendations came in the form of a motion, which carried unanimously.

10. Consent Agenda:

Assistant County Manager Lee Worsley presented the following four items on the consent agenda:

a. A request from Hickory Public Schools to dedicate \$131,439.69 in available lottery funds to provide additional funding to the Hickory Career & Arts Magnet (HCAM) School renovation project. The Fiscal Year 2011-12 budget includes \$1.5 million for HCAM renovations, to be debt financed. These funds will be used to make needed renovations to the former College Park Middle School building to support program needs for criminal justice, drama, culinary, graphic design and photography classes, and administration of the new magnet school. Hickory Public Schools has a balance of \$131,439.69 in available lottery funds and requested to use all of these funds to cover unexpected change orders on the HCAM project, including the need to supply more electricity to the building and address plumbing issues. Contingency funds set aside for the project are not adequate to cover the changes. Lottery funds can be used to fund education related construction and debt issued after January 1, 2003. The following supplemental appropriations apply:

Supplemental Appropriation:

423-740100-630501	School Building Capital - Lottery \$131,439.69
423-740100-865200-32101-3-03	HCAM – 2011 Renovations \$131,439.69

b. A request for the Board to adopt a resolution to authorize the Sheriff to provide mutual aid assistance to other law enforcement agencies. North Carolina General Statute 160A-288 permits the heads of local law enforcement agencies to enter into Mutual Aid Agreements with one another and establishes certain requirements for doing so. The agreement must be temporary and any request for assistance must be put in writing. Specifically, the governing body must adopt a resolution authorizing the Sheriff to enter into Mutual Aid Agreements. In 1982, the Board of Commissioners adopted a similar resolution, but the North Carolina statute has since changed and a new sheriff has

been elected, so it would be appropriate to adopt an updated resolution. The following resolution applies:

**RESOLUTION #2011-
TO AUTHORIZE THE SHERIFF TO PROVIDE ASSISTANCE TO OTHER LAW ENFORCEMENT
AGENCIES**

WHEREAS, pursuant to NCGS 160A-288, Catawba County is authorized to adopt guidelines and conditions by which the Sheriff may provide assistance to other North Carolina law enforcement agencies; and

WHEREAS, pursuant to the law, the Sheriff is authorized to temporarily provide assistance which may comprise of allowing officers of the agency to work temporarily with officers of the requesting agency (including in an undercover capacity) and lending equipment and supplies; and

WHEREAS, it is in the best interest of the citizens of the County, its municipalities, and this State to have law enforcement agencies assist one another in times of need;

NOW, THEREFORE, BE IT RESOLVED by the Catawba County Board of Commissioners that:

1. The Sheriff of Catawba County has the General Authority to enter into Mutual Aid Agreements with other municipal and county law enforcement agencies.

2. Any Mutual Aid Agreement shall be in compliance with NCGS 160A-288 and must specifically require the head of the agency requesting assistance to put the request in writing. The Sheriff must first make an assessment of the needs within the County before providing assistance under any Mutual Aid Agreement.

3. While working with the requesting agency, an officer shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defense of civil actions and payment of judgments) as the officers of the requesting agency, in addition to those he normally possesses.

4. While on duty with the requesting agency, he shall be subject to the lawful operation commands of his superior officers in the requesting agency, but he shall, for personnel and administrative purposes, remain under the control of his own agency, including for purposes of pay. An officer shall furthermore be entitled to worker's compensation and the same benefits when acting pursuant to this section to the same extent as though he were functioning within the normal scope of his duties.

This the 3rd day of October, 2011.

c. A request for the Board to adopt a resolution which adopts a four-year reappraisal of real property in accordance with North Carolina General Statute 105-286 (a)(2). With this action, the next reappraisal would become effective on January 1, 2015.

Upon a resolution adopted by the Board on September 4, 2007, the last revaluation cycle was accelerated to an effective date of January 1, 2011. Unless a resolution is adopted to again advance the eight-year cycle, the next revaluation would be effective on January 1, 2019. GS 105-286 (a)(2) states, "Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing".

Staff cited several reasons for recommending the continuation of a four-year revaluation cycle. 1) A four-year revaluation cycle allows for a more accurate representation of current real estate market values. 2) Personal property is valued at 100% every year, while real property is only at 100% on

the year of revaluation. The level of assessment between personal property and real property remains more equitable by conducting more frequent revaluations. The tax burden between real and personal property can become inequitable if there is eight years between real property reappraisals. 3) Public service companies receive an automatic reduction in the fourth and seventh years following the last revaluation if the level of assessment drops below 90% as determined by the North Carolina Department of Revenue. The level of assessment is the percentage of value on which the public service companies' tax bills are computed. Revaluations of four years or less eliminate this revenue loss. Catawba County lost \$2,285,253.89 in revenue, for the years 1995-1998, during the last eight-year cycle. By accelerating the most recent two cycles to four years, the County avoided this loss of revenue. The following resolution applies:

RESOLUTION No.

BE IT RESOLVED, the Board of Commissioners for Catawba County has adopted January 1, 2015, for the next reappraisal of real property in Catawba County. With this action, taken in accordance with NCGS 105-286 (a) (2), an advancement of the eight-year reappraisal cycle has been established for Catawba County. The succeeding revaluation is scheduled for January 1, 2023.

This the ____ day of October, 2011.

d. A request for the Board to grant the County Tax Administrator the authority, on an individual basis, to allow extensions for listing personal property. The extensions will not be granted beyond April 15, 2012. Businesses and corporations whose business year ends on December 31 of each year, and some individuals, can have difficulty completing their listing abstracts by January 31 of each year. This is due to the fact that they are unable to calculate an inventory taken on December 31 and submit this figure to the Tax Administrator. North Carolina General Statute 105-307 allows the Board of Commissioners to grant individual extensions of time for the listing of personal property upon written request and for good cause shown. The request must be filed with the Tax Administrator no later than the ending date of the regular listing period. This means a letter must be written and postmarked no later than January 31, 2012, and this letter must provide the reason the extension is being requested. Extensions granted on an individual basis cannot extend beyond April 15, 2012.

The Board was asked if any member wished for an item to be broken out of the consent agenda. Commissioner Isenhower did not want an item broken out but requested that the liability issues of the Sheriff's office be clarified on the mutual aid item. County Attorney Debra Bechtel clarified that officers would fall under their home liability policies during mutual aid periods. Commissioner Hunsucker made a motion to approve the consent agenda. The motion carried unanimously.

11. Departmental Reports:

Mental Health Partners:

Mental Health Partners Director John Hardy presented a request for the Board to endorse an "Intent to Merge Agreement" which outlines Mental Health Partners' intent to join with Crossroads and Pathways Local Managing Entities (LMEs) to form a single managing entity for the purposes of overseeing the delivery of mental health, developmental disability, and substance abuse services to the citizens of the eight counties of Catawba, Burke, Lincoln, Gaston, Surry, Yadkin, Iredell and Cleveland. The Board of Mental Health Partners adopted this Intent to Merge Agreement at its September 15, 2011, meeting.

This is a joint response to action by the North Carolina General Assembly that requires Local Managing Entities to serve a population of at least 500,000 by July 1, 2012. This merger will result in a population of 906,746 with approximately 140,000 Medicaid covered lives. This merger is also the basis for this new entity to perform as a Managed Care Organization and to be in the Medicaid

1915 (b) (c) Waiver program, effective January 1, 2013. In response to a Request for Application to operate a merged waiver site, the State has approved the submitted plan.

This "Intent to Merge Agreement" is a by-product of a joint meeting between the boards of Crossroads, Pathways and Mental Health Partners on August 20, 2011, where a consensus was reached on all of the key points. Concurrently, each of the respective LME Boards has approved this document and is in the process of seeking endorsement from the respective eight Boards of Commissioners.

The Intent to Merge Agreement reads as follows:

**INTENT TO MERGE AGREEMENT BETWEEN CROSSROADS BEHAVIORAL HEALTHCARE
AND MENTAL HEALTH PARTNERS AND THE GASTON-LINCOLN-CLEVELAND MENTAL
HEALTH/ DEVELOPMENTAL DISABILITIES/SUBSTANCE ABUSE AUTHORITY (d/b/a
PATHWAYS)**

WHEREAS, Crossroads Behavioral Healthcare is currently established as a multicounty area mental health, developmental disabilities, substance abuse authority and local management entity (hereinafter referred to as "Crossroads"); and

WHEREAS, Mental Health Partners is currently established as a multi-county area mental health, developmental disabilities, substance abuse authority and local management entity (hereinafter referred to as "MHP"); and

WHEREAS, Gaston-Lincoln-Cleveland Mental Health/Developmental Disabilities/Substance Abuse Authority is currently established as a multi-county area mental health, developmental disabilities, substance abuse authority and local management entity (hereinafter referred to as "Pathways"); and

WHEREAS, Crossroads serves the counties of Iredell, Surry and Yadkin and its Board is appointed by the respective Boards of Commissioners from these counties; and

WHEREAS, MHP serves the counties of Burke and Catawba and its Board is appointed by the respective Boards of Commissioners from these counties; and

WHEREAS, Pathways serves the counties of Cleveland, Gaston and Lincoln and its Board is appointed by the respective Boards of Commissioners from these counties; and

WHEREAS, Crossroads, MHP and Pathways have been approved by the State of North Carolina to begin operating under North Carolina's 1915(b)(c) Medicaid Waiver Program beginning no later than January 2013 which will necessitate a merger of the three (3) local management entities ("LME's"); and

WHEREAS, all parties' goals can best be realized by expanding their "Catchment Areas" (meaning the counties served), consolidating operations and working toward a merger to be effective on July 1, 2012; and

WHEREAS, in order to further the implementation of certain business operations and plan for governance structure and human resource needs, the three (3) LME's and all counties in the Catchment Areas hereby indicate their intent to merge and their agreement on certain decisions in order to facilitate the subsequent merger.

NOW, THEREFORE, in consideration of the mutual promises and considerations set forth in this Agreement, the parties agree on the following:

1. **PURPOSE.** It is the intent to merge Crossroads, MHP and Pathways effective July 1, 2012 in order to continue to manage the provision of high quality, cost effective mental health, developmental disabilities and substance abuse services to priority consumers who are citizens of Iredell, Surry, Yadkin, Burke, Catawba, Cleveland, Gaston and Lincoln Counties.

2. **SURVIVING ENTITY.** Pathways shall be the legal, surviving entity. The name and by-laws of Pathways shall be changed and amended respectively at the time of merger.

3. **BOARD OF DIRECTORS.**

(a) The surviving entity shall be governed by a Board of Directors.

(b) The Board of Directors shall consist of up to twenty-six (26) members with the ability to increase as needed in order to assure that each county in the Catchment Area has at least two (2) members. The number of members from each county shall be determined by the percentage of each county's population compared to the total population of the Catchment Area. (Ex. county population ÷ total population will serve to determine number of board members out of 25 members). The number of members per county will be adjusted every three (3) years based on any population changes. The population numbers used will be those numbers as published by the North Carolina Department of Health and Human Services.

(c) The chair of the merged entity's Consumer and Family Advisory Committee (CFAC) shall be a member of the Board of Directors by virtue of their position.

(d) The members (other than the CFAC chair) shall be chosen by the appointing commissioner(s) from each respective county. A representative listing of the makeup of the initial Board of Directors is attached as Exhibit A.

(e) The existing Boards of Directors for Crossroads, MHP and Pathways shall resign, or in the absence of such resignation, deemed to have resigned, such resignations to be effective immediately upon the effective date of the merger.

4. **MERGER COMMITTEE.** A merger committee shall be established consisting of three (3) members from each of the three (3) LME's as appointed by the respective Boards of Directors. The merger committee shall serve as a planning and transition committee and as a liaison to the current LME Boards. The merger committee shall meet as it determines necessary and be given support from the management of all three (3) LME's. The merger committee shall dissolve upon the effective date of the merger.

5. **INTERIM FUNDING COSTS.** A merger/implementation fund of approximately \$6 million dollars will be established and funded by the three LME's with the breakdown of committed funds from each LME as determined by previous calculations conducted by the North Carolina Division of Mental Health ("NCDMH"). The amounts determined by NCDMH to be used for the merger/implementation fund are \$5 million from Pathways, \$500,000 from MHP and \$500,000 from Crossroads. The amounts from MHP and Crossroads will be forwarded to Pathways within thirty (30) days of the execution of this document for administration of the merger/implementation fund upon execution of this agreement. The merger/ implementation fund will be utilized in order to cover costs incurred in establishing the merged entity and developing the functions of a 1915(b)(c) waiver entity.

6. **PRINCIPAL OFFICE AND LOCAL PRESENCE.** The principal office of the merged entity shall be located at 901 S. New Hope Road, Gastonia, NC 28054. The current local offices will be maintained for the time being utilizing a hub and spoke operations method. Management will determine which functions will best be handled at centralized hubs with others located at local sites.

7. **MANAGEMENT ORGANIZATIONAL CHART.**

(a) An organization chart of human resource positions for the merged entity is attached as Exhibit B. It is understood and acknowledged that positions, placement and supervisory chains of command may be revised as merger is achieved and after merger is accomplished.

(b) New employees and current employees of the three (3) LME's may be hired for positions during merger implementation. If the hire is a new employee for the Managed Care Organization ("MCO"), the cost will be borne by the merger/ implementation fund. If a current LME employee is hired for a MCO position, the cost will continue to be borne by the current LME by which they are employed. The handling of the employee's current and new MCO duties will be handled on a case-by-case basis.

(c) It is contemplated that the three (3) current area directors shall be placed in the following positions and should begin work in these positions in addition to carrying out their current duties in order to effect a successful merger:

- MCO Director/Area Director of merged entity – Rhett Melton
- Community Relations Director – John Hardy
- Clinical Operations Director – David Swann

The final appointment of the MCO Director/Area Director shall be the function and right of the newly created Board of Directors for the merged entity. As required by statute, all other positions shall be filled by the MCO Director/Area Director according to the established implementation plan which outlines the MCO hiring process over time.

8. ASSETS.

(a) Assets and Fund Balances. All assets and fund balances, designated or undesignated, currently owned and used by Crossroads, MHP and Pathways will be transferred to the surviving entity at the effective date of merger.

(b) Real Estate Leases. It is contemplated that any leases between the three (3) LME's and the counties in the Catchment Area will be assigned to the surviving entity on the currently existing terms.

(c) Personal Property. All personal property presently belonging to or used by the three (3) LME's specifically including but not limited to, equipment, vehicles, fixtures and inventory shall be transferred to the surviving entity pursuant to a Contract of Conveyance/Assignment/Bill of Sale. The Contract of Conveyance/Assignment/Bill of Sale shall be executed by the appropriate officials of the LME's or the counties as appropriate.

(d) Equipment Leases. Any equipment leases to which the three (3) LME's are presently a party shall be assigned, as deemed necessary, to the surviving entity.

9. LIABILITIES. Any liability of the three (3) LME's arising prior to the merger, existing at the time of this merger, or coming into existence after the merger shall become the responsibility of the surviving entity; provided, however, this transfer of liabilities shall not impact any possible insurance coverage or any dispute or defense as to the validity of the liability with any third party.

10. COUNTY APPROPRIATIONS. The County Commissioners of each of the counties in the Catchment Area agree to use their best efforts to continue or have continued the current level of funding and to fund increases where the Commissioners deem appropriate in order to effectively provide mental health, developmental disability and substance abuse services through the surviving entity.

11. COVENANT OF PATHWAYS. Pathways, as the surviving entity, will use its best efforts to provide delivery of high quality mental health services to residents of the Catchment Area within existing finances after the effective date of merger.

12. STATE APPROVAL. The Catchment Area for the surviving entity shall be comprised of the Counties of Iredell, Surry, Yadkin, Burke, Catawba, Cleveland, Gaston and Lincoln. All parties understand and acknowledge that state approval for the merger is necessary and required.

13. WAIVER. The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a future waiver of the term or deprive that party of its right thereafter to insist upon strict adherence to that term or any other term of this Agreement or any subsequent agreement. Any waiver must be in writing, and no waiver of any breach of any provision

shall constitute a waiver of any other breach of such provision or of any other provision thereof.

14. **INTERIM AGREEMENT.** This Intent to Merge Agreement constitutes an acknowledgement of intention and is not intended to be the final agreement between the parties.

15. **SECTION HEADINGS.** Section headings contained in this Agreement are included for convenience only and do not define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

16. **APPLICABLE LAW.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of North Carolina.

17. **EXECUTION.** The parties agree to execute all documents, instruments or further assurances as may be necessary or required to effectuate and complete all transactions contemplated by this Agreement.

18. **MULTIPLE ORIGINALS.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and it shall not be necessary to make any proof of this Agreement to produce or account for more than one such counterpart.

At the September 15th meeting, the Mental Health Partners' Board accepted its Annual Report for FY 2010-2011. The contents of this report was shared with the Board of Commissioners as part of this agenda item. Commissioner Isenhower made a motion to endorse the Intent to Merge Agreement. The motion carried unanimously.

12. Other Items of Business: Chair Barnes noted that County Manager J. Thomas Lundy was not at the meeting because he was in Washington but she thought it was appropriate for Assistant County Lee Worsley to run the meeting as it was his last Board Meeting with the County. All Board members expressed their appreciation for the professionalism and service of departing Assistant County Manager Worsley. Mr. Worsley has taken the position of Deputy County Manager for Durham County. Each Board member expressed his or her thanks for the efforts Mr. Worsley has made on the part of the County and the Board, and noted that he will be missed. Mr. Worsley stated it had been a hard decision to leave Catawba County, but the Durham position will allow him to be closed to both his and his wife's family. Chair Barnes presented Mr. Worsley with the Key to the County.

13. Attorney's Report:
Deputy County Attorney Anne Marie Pease requested, the Board moved into Closed Session, pursuant to North Carolina General Statute 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege in the matter of Catawba County vs. Frederic William Ottinger, et al. File No. 2011-CVS-997. No action was anticipated upon return to open session. Vice-Chair Lail made a motion to move into closed session at 10:20 a.m. The motion carried unanimously.
14. Manager's Report. Finance Director Rodney Miller advised the Board a large oak tree on the Courthouse property would have to be removed due to root rot and for safety reasons.

15. Adjournment: The Board returned to open session at 10:25 a.m. and Commissioner Beatty made a motion to adjourn. The motion carried unanimously.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris
County Clerk